

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUAN MORGAN,)	
)	
Plaintiff,)	
)	
v.)	Civ. No.: 05-989(RCL)
)	ECF
MIKE JOHANNNS,)	
Secretary, Dept. of Agriculture,)	
)	
Defendant.)	
_____)	

**WITHDRAWAL OF DEFENDANT’S MOTION TO DISMISS
FOR IMPROPER SERVICE OF PROCESS**

Defendant Mike Johanns, Secretary, U.S. Department of Agriculture, in his official capacity, hereby withdraws Defendant’s Motion to Dismiss for Improper Service of Process. On September 6, 2005, Defendant moved to dismiss the above-captioned action because *pro se* Plaintiff Juan Morgan failed to serve the United States Attorney’s Office for the District of Columbia (USAO-DC) properly.

Subsequently, on September 28, 2005, the Court issued a Minute Order directing Mr. Morgan to respond to Defendant’s motion to dismiss. On October 5, 2005, Mr. Morgan cured his previous improper service by serving the USAO-DC’s Civil Process Clerk with another copy of the summons and complaint. On October 7, 2005, Mr. Morgan filed an opposition to Defendant’s motion, attaching two declarations and copies of the “Certified Mail Receipt” showing that he properly served the USAO-DC, the U.S. Attorney General, and the agency itself as required under Fed. R. Civ. P. 4(i). See Dkt. 7 (Exh. B).

Mr. Morgan effectively addressed the service issues raised in Defendant’s motion to dismiss. Based on these facts, Defendant hereby withdraws its September 6, 2005, motion to

dismiss for improper service.¹

Dated: October 11, 2005.

Respectfully Submitted,

/s/

KENNETH L. WAINSTEIN, D.C. BAR #451058
United States Attorney

/s/

R. CRAIG LAWRENCE, D.C. BAR #171538
Assistant United States Attorney

/s/

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Attorneys for Defendant

¹ Under Fed. R. Civ. P. 12(a)(3)(A), Defendant has 60 days from the date that Mr. Morgan properly served the USAO-DC to respond to his Complaint. Accordingly, Defendant will respond to the Complaint on December 5, 2005.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 11th of October , 2005, service of the foregoing Withdrawal of Defendant's Motion to Dismiss for Improper Service of Process was made via the Court's Electronic Case Filing System and by first class, postage prepaid mail to pro se plaintiff addressed as follows:

Mr. Juan Morgan
PSC 2, Box 2814
APO AA 34002

_____/s/
JOHN C. TRUONG
Assistant United States Attorney